

Appl. No.: 09/775,860

Amendment Dated: 12/30/2004

Reply to OA of 10/18/2004

### **REMARKS**

This amendment is responsive to the Action dated October 18<sup>th</sup>, 2004. With this response, claims 14, 28 and 42 have been cancelled, without prejudice. Thus, claims 1-13, 15-27, 29-41 and 42-45, as selectively amended, remain pending. Support for the amendments can be found in the original specification, claims and/or drawings. In this regard, no new matter has been introduced.

### **Claim Objections**

In paragraph 1 of the Action, claim 39 was objected to for lacking proper antecedent basis.

In response, Applicant has amended claim 39 per the recommendation of the Examiner. Accordingly, Applicant respectfully requests that the objection to claim 39 on this basis be withdrawn.

### **§112, second paragraph, Rejections of claims 4, 6-14, 18-28 and 32-42**

In paragraphs 2 and 3 of the Action, claims 4, 6-14, 18-28 and 32-42 were rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In response, Applicant has selectively amended claims 4, 18 and 32 to clarify the scope of the claims. Applicant respectfully submits that such amendment clarifies the metes and bounds of the claimed invention, and respectfully requests that the rejection thereto be withdrawn.

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**§102(b) Rejection of Claims 1-13, 15-27, 29-41 and 43, 44**

In paragraphs 4 and 5 of the Action, claims 1-13, 15-27, 29-41, 43 and 44 were rejected as being anticipated by a patent issued to Robinson (USP 5,544,222) pursuant to 35 USC §102(b).

Without accepting or adopting the characterization of the rejected claims or the Robinson document, Applicant has selectively amended claims 1, 15, 29 and 43 to further distinguish such claims over the cited reference. Applicant respectfully submits that the Robinson document fails to anticipate, disclose or suggest that which is claimed in amended claims 1, 15, 29 and 43. Accordingly, Applicant respectfully requests that the §102(b) rejection of such claims be withdrawn.

Applicant notes that claims 2-13, 16-27, 30-41 and 44 depend from patentable base claims 1, 15 29 or 43, respectively. Applicant respectfully submits that, in addition to any independent bases for patentability, such claims are likewise patentable over the Robinson document. Accordingly, Applicant respectfully requests that the §102(b) rejection of such claims be withdrawn.

**§102(b) Rejection of Claims 1-7, 15-21 and 29-36**

In paragraph 6 of the Action, claims 1-7, 15-21 and 29-36 were rejected as being anticipated by a patent issued to Atkinson (USP 6,694,484) pursuant to 35 USC §102(b). In response, Applicant respectfully traverses the rejection of such claims.

In particular, without adopting or accepting the characterization of either the rejected claims or the cited document, Applicant respectfully submits that it cannot find within the Atkinson reference mention of a base transceiver station comprising a first and a second

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upstream device coupled with a downstream device that enables simultaneous communication with each of the first and second upstream devices. Rather, Atkinson describes a base controller station including first and second upstream devices that is separate and apart from the downstream device(s) located within a base transceiver station.

It is respectfully noted that anticipation under 35 USC § 102 requires the disclosure in a single prior art reference of each element of the claim under consideration. *See Verdegaa Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987).

However, it is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, "[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*" *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). "The *identical invention* must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP § 2131 (emphasis added).

In view of at least the foregoing distinctions, Applicant respectfully submits that the Action has failed to present a prima facie case of anticipation of, e.g., rejected claims 1, 15 or 29. Accordingly, Applicant respectfully requests that the §102(b) rejection of such claims be withdrawn.

Applicant notes that claim 2-7, 16-21 and 30-36 each depend from patentable base claims 1, 15 or 29, respectively. Thus, in addition to any independent bases for patentability, Applicant respectfully submits that such claims are similarly patentable over the Atkinson reference by

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virtue of at least such dependency. Accordingly, Applicant respectfully requests that the §102(b) rejection of such claims be withdrawn.

**§103(a) Rejection of Claims 14, 28, 42 and 45**

In paragraphs 7 and 8 of the Action, claims 14, 28, 42 and 45 were rejected as being obvious in view of the Robinson reference. In response, Applicant traverses the rejection of these claims.

Applicant notes that claims 14, 28 and 42 were cancelled, without prejudice, thereby rendering moot the rejection of such claims.

With regard to claim 45, however, the Action asserts that a table format comprising seven columns and ten rows would have been obvious to one of ordinary skill in the art, given the “table” of one row and a plurality of columns disclosed in Robinson. Applicant respectfully disagrees.

First, the data format in Robinson is not readily described as a “table format” of one row, with multiple columns, nor would it be recognized as such by one skilled in the art at the time the application was filed. Rather, one skilled in the art would recognize it as typical of a conventional one-dimensional packet format well known in the art. In contrast, the claimed invention introduces a multi-dimensional data format.

Second, the Robinson reference fails to disclose or suggest the necessary processing elements for generating, transmitting, or interpreting the multi-dimensional data format of the claimed invention. Insofar as the processing elements are not simply an extension of the one-dimensional processing of Robinson, one skilled in the art reading Robinson would not be motivated to engineer the elements necessary to support a multi-dimensional frame format.

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In sum, Applicant respectfully submits that the motivation of “increasing throughput” described in the Action is simply not supported by the Robinson reference. That is, Applicant respectfully submits that the Robinson reference fails to provide the motivation relied upon in the Action. Applicant notes that absent such motivation, the Action has failed to establish a prima facie basis for the rejection, and respectfully requests that the rejection of such claim be withdrawn.

Moreover, Applicant notes that claim 45 is dependent upon patentable base claim 43. Thus, in addition to the independent bases of patentability, e.g., disclosed above, Applicant respectfully submits that claim 45 is likewise patentable over the Robinson reference by virtue of at least such dependency. In view of the reasons presented above, Applicant respectfully requests that the §103(a) rejection of claim 45 be withdrawn.

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**CONCLUSION**


Applicant respectfully submits that claims 1-13, 15-27, 29-41 and 43-45, as amended, are in condition for allowance and such action is earnestly solicited. *The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.*

Please charge any shortages and credit any overcharges to our Deposit Account number 50-0221.

Respectfully submitted,  
STEVEN W. KECK, ET AL.

Date: December 31, 2004

by:

  
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